IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

Crl.Rev.Pet.No. 1954 of 2007()

CRA NO. 81/2005 of ADDL. SESSIONS (ADHOC-I) KALPETTA
S.T. 2547/2003 of JUDICIAL FIRST CLASS MAGISTRATE-II, SULTHAN BATHERY.

REVN. PETITIONER: APPELLANT/ACCUSED

M.BABU, VIJAYA AUTO SERVICES,
KALPETTA POST, WAYANAD DISTRICT.

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS: RESPONDENTS/COMPLAINANT
---

1. SOORYA KUMAR, S/O.SREEDHARAN,
SREE VILASAM, KOLERI POST,
POOTHADAI AMSOM DESOM, SULTHAN BATHERY.

2. STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

==========

CRL. R.P. NO. 1954 OF 2007 D

==========

Dated this the 6th day of June 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to imprisonment till the rising of the court and to pay a compensation of Rs.1,60,000/- and in default to undergo simple imprisonment for three months.

2. The contention of the revision petitioner is that the evidence of PW1 is sufficient to rebut the statutory presumptions. The oral evidence of DW1 is that only a sum of Rs.35,000/- was borrowed by the revision petitioner and that he collected the amount from PW1 and handed over the same to the complainant and that the amount was repaid. Evidently no steps were taken to get back the blank cheque allegedly executed. I find that both the courts below have meticulously considered the evidence. In the circumstances and in view of the evidence of PW1 who was

proved the execution of the cheque, I find no reason to interfere in the findings of the courts below. The revision petition is dismissed in limine.

3. Considering the plea of the counsel for the revision petitioner, the revision petitioner is granted six months time from today onwards to pay the amount of compensation. He shall appear before Judicial First Class Magistrate-II, Sulthan Bathery on **05.12.2007** to receive sentence.

K.R. UDAYABHANU, JUDGE.

rv